

STATE OF FLORIDA

GARY F. CLARK
CHAIRMAN



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Public Service Commission

June 18, 2020

NOTICE OF NONCOMPLIANCE

John Curtis
The St. Joe Company
3196 Merchants Row Blvd.
Suite 140
Tallahassee, FL 32311
John.curtis@joe.com

via Email, U.S. Mail, and Certified

Abraham Prado
St. James Island Utility Company
108 Sea Pine Drive
St. Teresa, FL 32358
abraham.prado@joe.com

RECEIVED-FPSC
2020 JUN 22 PM 4:31
COMMISSION
CLERK

Re: St. James Island Utility Company - Apparent noncompliance with Section 350.113, 367.121, and 367.145, Florida Statutes and Rules 25-30.110 and 25-30.120, Florida Administrative Code and possible implementation of show cause proceeding against St. James Island Utility Company, pursuant to Section 367.161, Florida Statutes.

Dear Sirs:

Section 367.011, Florida Statutes (F.S.), provides that under Chapter 367, F.S., the Florida Public Service Commission (Commission) shall have exclusive jurisdiction over each water and wastewater utility with respect to its authority, service, and rates. A review of Commission records indicates that St. James Island Utility Company (St. James or Utility) may be in noncompliance with several Commission-related statutes and rules. If a utility fails to comply with Commission statutes and rules, Section 367.161, F.S., authorizes the Commission to take enforcement action, including the collection of penalties or revocation of a utility's certificate of authorization. Section 367.161, F.S., provides:

- (1) If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission. However, any penalty assessed by the commission for a violation of s. 367.111(2) shall be reduced by any penalty assessed

by any other state agency for the same violation. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the utility, enforceable by the commission as statutory liens under chapter 85. The proceeds from the enforcement of any such lien shall be deposited into the General Revenue Fund.

- (2) The commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85. The collected penalties shall be deposited into the General Revenue Fund unallocated.

This Notice of Noncompliance addresses St. James's apparent violations of: (1) Sections 350.113 and 367.145, F.S., and Rule 25-30.120 Florida Administrative Code (F.A.C.), for failure to submit Regulatory Assessment Fees; (2) Rule 25-30.110, F.A.C., for failure to submit its Annual Report.

In compliance with Section 120.695(2)(a), F.S., St. James's apparent noncompliance with the Commission's statutes and rules is outlined below:

1. Regulatory Assessment Fees

Applicable Law

Pursuant to Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., each regulated company under the jurisdiction of the Commission shall pay to the Commission a Regulatory Assessment Fee (RAF) based upon the gross operating revenues for the prior year operating period. Rule 25-30.120, F.A.C., requires that utilities pay a RAF of 4.5 percent of its gross revenues derived from intrastate business, or a minimum of \$25.00 if there are no revenues or if revenues are insufficient to generate above the \$25.00 minimum. Section 350.113(4), F.S., provides for a penalty of 5 percent for the first 30 days, and an additional penalty of "5 percent for each additional 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of 25 percent," and states that "[t]he commission shall collect the fee and penalty, plus interest and all costs of collection, from the regulated company." Further, Section 367.145(1)(b), F.S., and Rule 25-30.120(7)(b), F.A.C., state that, in addition to the penalties and interest otherwise provided, the Commission may impose a penalty upon a utility for failure to pay RAFs in a timely manner in accordance with Section 367.161, F.S.

Factual Allegations

Commission records indicate that St. James failed to timely submit its RAFs for 2019.

Based on the foregoing, it appears that St. James may be operating in violation of Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., as the Utility failed to submit its total RAFs for 2019.

Because St. James failed to fully submit its 2019 RAFs, statutory penalties and interest are also due. As of June 18, 2020, the total amount St. James owes, plus associated penalties and interest, is \$332.48. A breakdown of the amount is shown in the table below.

YEAR	DATE DUE	DATE SUBMITTED	WATER PENALTY	WASTEWATER PENALTY	TOTAL AMOUNT OWED
2019	3/31/2020	5/04/2020	\$161.34	\$171.14	\$332.48

Commission staff notes that penalties and interest will continue accruing until St. James provides payment in full. Therefore, the total amount St. James owes may become greater than \$332.48.

Corrective Action Required

In order to bring itself into compliance with Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., St. James must immediately submit **payment in full** for the RAFs, penalties, and interest for the year 2019. As of June 18, 2020, the total amount St. James owes is **\$332.48**. **However, St. James should contact Rachael Dziechciarz at 850-413-6212 or rdziehc@psc.state.fl.us to obtain an updated balance prior to submitting its payment.** If payment is not received **in full** by July 18, 2020, Commission staff will open an enforcement docket to initiate a show cause proceeding against St. James.

Should St. James be found in violation of Commission statutes and/or rules, the Commission may impose fines of up to \$5,000 per violation, for each day the violation continues, levied as a statutory lien upon the real and personal property of the Utility, or the Commission may amend, suspend, or revoke St. James's certificate of authorization, pursuant to Section 367.161, F.S.

2. Annual Reports

Applicable Law

Section 367.121(1)(c) and (i), F.S., authorizes the Commission to require utilities subject to its jurisdiction to file such regular financial reports it deems necessary. Rule 25-30.110(3), F.A.C., provides that each utility under the jurisdiction of the Commission shall file an Annual Report on or before March 31st, for the preceding year ending December 31st. Rule 25-30.110(3)(c), F.A.C., provides that a utility's request for an extension of time must be submitted no later than March 31st. The standard penalty for delinquent Annual Reports is \$3 per day for a Class C utility, pursuant to Rule 25-30.110(7), F.A.C.

Factual Allegations

A review of Commission records indicates that St. James was granted an extension until April 30th, 2019, to submit its 2018 Annual Report and till April 30th, 2020 to submit its 2019 Annual Report. As of June 18th, 2020, St. James has not submitted its 2018 and 2019 Annual Report.

Based on the foregoing, it appears that St. James may be operating in violation of Rule 25-30.110(3), F.A.C., as the Utility failed to timely submit its 2018 and 2019 Annual Report.

Because St. James failed to timely submit its 2018 and 2019 Annual Report, penalties are also due. As of June 18, 2020, the total amount St. James currently owes for failing to timely submit its 2018 and 2019 Annual Report is **\$1392.00**. A breakdown of the amount is shown in the table below.

YEAR	DATE DUE	DATE SUBMITTED	DAYS LATE	PENALTY (\$3 per day)
2018	04/30/2019	N/A	415	\$1,245.00
2019	04/30/2020	N/A	49	\$147.00

Commission staff notes that penalties will continue accruing until St. James provides payment in full. Therefore, the total amount St. James owes may become greater than \$1392.00.

Corrective Action Required

In order to bring itself into compliance with Rule 25-30.110(3), F.A.C., St. James must immediately submit its 2018 and 2019 Annual Report, along with penalties. As of June 18, 2020, the total amount St. James currently owes for failing to timely submit its 2018 and 2019 Annual Report is **\$1392.00**. **However, St. James should contact Rachael Dziechciarz at 850-413-6212 or rdziehc@psc.state.fl.us to obtain an updated balance prior to submitting its payment.** If payment is not received in full by July 18, 2020, Commission staff will open an enforcement docket to initiate a show cause proceeding against St. James.

Should St. James be found in violation of Commission statutes and/or rules, the Commission may impose fines of up to \$5,000 per violation, for each day the violation continues, levied as a statutory lien upon the real and personal property of the Utility, or the Commission may amend, suspend, or revoke St. James's certificate of authorization, pursuant to Section 367.161, F.S.

To summarize, as of June 18, 2020, the total amount St. James owes for past due RAFs, plus penalties and interest, for the year 2019, is **\$332.48**. Furthermore, as of June 18, 2020, the total amount St. James owes for failing to submit its 2018 and 2019 Annual Report is **\$1,392.00**. **However, St. James should contact Rachael Dziechciarz at 850-413-6212 or rdziehc@psc.state.fl.us to obtain updated balances prior to submitting its payments.** Payment in full, along with the requested documents and written responses, must be received by the Commission by **July 18, 2020**. Please also provide any mitigating information or circumstances related to St. James's apparent violations of the aforementioned Commission statutes and rules.

If full payment and the requested documents and written responses are not received by **July 18, 2020**, Commission staff will open an enforcement docket to initiate a show cause proceeding against St. James. Should St. James be found in violation of Commission statutes and/or rules, the Commission may impose fines of up to \$5,000 per violation, for each day each violation continues, levied as a statutory lien upon the real and personal property of the Utility, or the Commission may amend, suspend, or revoke St. James's certificate, pursuant to Section 367.161, F.S. If necessary, the Commission may also seek injunctive or other appropriate relief in circuit court to compel St. James's compliance, pursuant to 367.121, F.S.

Should you have questions regarding the matters discussed herein, you may contact me at 850-413-6212 or rdziehc@psc.state.fl.us.

Sincerely,

/s/ Rachael Dziechciarz

Rachael Dziechciarz
Senior Attorney

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